



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/098,580

03/15/2002

Carl G. DeMarcken

09765-014002

6894

26161 7590 08/05/2008

FISH & RICHARDSON PC  
P.O. BOX 1022  
MINNEAPOLIS, MN 55440-1022

EXAMINER

LE, LINH GIANG

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

08/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/098,580	<b>Applicant(s)</b> DEMARCKEN ET AL.	
	<b>Examiner</b> MICHELLE LE	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-48 and 56-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-48 and 56-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### *Notice to Applicant*

1. This communication is in response to Amendment and response filed 02 April 2008. Claims 28, 56 and 71 have been amended and claims 28-48 and 56-82 remain pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention
3. Examiner withdraws the previous rejection of claims 28-48 and 56-82 under 35 USC 112 second paragraph as being indefinite. Applicant has amended the claim to including matching *or* being substantially close in characteristics.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3626

5. Claims 28-48 and 56-82 remain pending for substantially the same reasons as stated in the 26 July 2007 Office Action.

***Response to Arguments***

6. Applicant's arguments filed 02 April 2008 have been fully considered but they are not persuasive.

7. Applicant first argues on pgs. 14-17 of the 4/2/08 Response that Ballis does not teach the limitations of independent claims 28 and 56. Examiner disagrees.

(A) Applicant argues that Ballis fails to teach a method of providing a predicted answer in response to a query from a user. In response to applicant's arguments, the recitation of giving a predicted answer has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The method steps in claim 28 of retrieving and matching queries do not depend upon the preamble for completeness. The method steps for providing a predicted answer merely recites the purpose of the method but does not add any further completeness to the steps.

Art Unit: 3626

(B) Applicant next argues that Bailis fails to teach retrieving a stored query from a cache that stores queries and answers to queries stored from previously completed queries sent to the system (4/2/08 Response; pg. 16). Examiner disagrees. Bailis teaches supplying subsequent identical queries with data from cache instead of reexecuting the search of the entire database (Bailis; Col. 4, lines 55-65). Thus, one of ordinary skill in the art would understand this to mean previous queries would be stored cache. Previous queries would have to be stored in order for the system to determine if a subsequent query was identical.

(C) Applicant argues that Bailis fails to teach determining whether at least *some* fields in the stored query match corresponding fields in the user's query and retrieving an answer corresponding to the stored query from the cache. Examiner disagrees because Bailis does teach determining whether at least *some* fields in the stored query match. As indicated earlier, Bailis teaches subsequent identical queries with data from the cache. By teaching matching of identical queries, Bailis inherently teaches matching based on *some* of the fields. Matching of *some* of the fields is inclusive within matching of *all* of the fields.

8. As per claims 29, 30 and 36, Examiner maintains the data specifically relating to flight travel is non functional descriptive matter. Applicant argues that the data is not non-functional descriptive material because the data does not encompass data such as music, literature, art, photographs and mere arrangements or compilations of facts or data. Examiner disagrees. Examiner

Art Unit: 3626

believes that the particular type of data does not add to any functionality to the substrate of the method. Furthermore claims 28 and 56 are directed to matching data. Examiner submits that the *type* of data has no bearing on whether the data matches or not.

9. As per claim 31, Applicant repeats the argument that Bailis does not teach determining whether *some* of the fields match. Examiner has addressed this argument above and the response is incorporated herein.

10. As per claims 32 and 33, Applicant applies and incorporates the above response for claims 28 and 31.

11. As per claim 34, Examiner submits that one of ordinary skill in the art would understand the process of querying, matching queries and sending an answer to be a continual process. The database system of Bailis would be suitable for use in any commercial database engine thus the process would be continual.

12. As per claims 37-44, Examiner maintains that identifying a confidence factor is not functionally related to the substrate of the method. The confidence factor is a statistical measure to determine the reliability of the retrieved matching answer. As stated earlier, the results of matching queries is not functionally

Art Unit: 3626

affected by the type of data. Thus the determination of a confidence factor is also not functionally affected by the type of data either.

13. As per claims 45-48, Applicant argues that Bailis does not use a *model* to indicate an answer is considered stale. However, Bailis does teach a programmable timer that would allow the database to adjust dynamically to changing conditions (Bailis; Col. 4, lines 62-65). Examiner submits that a programmable timer reads upon a model to determine when an answer is considered stale.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3626

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Linh-Giang Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-3600. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle Linh-Giang Le/  
Examiner, Art Unit 3626  
LLe

/Robert Morgan/  
Primary Examiner, Art Unit 3626